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11 Attorneys for Defendant,
12 DELTA AIR LINES, INC.

13 Dev Anand Oman, Todd Eichmann,
Michael Lehr, and Albert Flores,
14 individually, on behalf of others similarly
situated, and on behalf of the general public,

15 Plaintiff,

16 vs.

17 Delta Air Lines, Inc.,

18 Defendant.

19 Case No. 3:15-cv-00131-WHO

20 **STIPULATION AND
ORDER REGARDING CROSS MOTIONS
FOR SUMMARY JUDGMENT ON
PLAINTIFFS' WAGE STATEMENT
CLAIMS**

1 Plaintiffs Dev Anand Oman, Todd Eichmann, Michael Lehr, and Albert Flores
 2 (“Plaintiffs”) and Defendant Delta Air Lines, Inc. (“Delta”) (collectively, “the Parties”), by and
 3 through their respective counsel of record, stipulate as follows:

4 WHEREAS, the Court previously set a case management schedule allowing the Parties to
 5 file cross motions for summary judgment on Plaintiffs’ minimum wage claims prior to class
 6 certification, with Defendant agreeing not to assert the one-way intervention doctrine if Plaintiffs
 7 prevailed on summary judgment (*see* ECF Nos. 19, 20);

8 WHEREAS, by order dated December 29, 2015, the Court granted Defendant’s motion
 9 for summary judgment and denied Plaintiffs’ cross motion for summary judgment (ECF No. 45);

10 WHEREAS, the Court subsequently issued a scheduling order setting an October 5, 2016
 11 deadline for Plaintiffs to file a motion for class certification on their remaining wage statement
 12 claims (ECF No. 49);

13 WHEREAS, another Court in this district recently certified a class of United Airlines
 14 pilots asserting wage statement claims similar to those Plaintiffs advance here (*see Ward v.*
 15 *United Airlines, Inc.*, 2016 WL 1161504 (N.D. Cal. Mar. 23, 2016));

16 WHEREAS, on July 19, 2016, the *Ward* Court granted summary judgment to United
 17 Airlines on the pilot class’s wage statement claims (*see Ward v. United Airlines, Inc.*, 2016 WL
 18 3906077 (N.D. Cal. July 19, 2016));

19 WHEREAS, on July 20, 2016, the Parties engaged in unsuccessful mediation of this
 20 matter with Jeffrey Ross, Esq.;

21 WHEREAS, while Plaintiffs expressly retain all arguments that the *Ward* summary
 22 judgment decision was wrongly decided and does not control in this case, the existence of the
 23 *Ward* case counsels in favor of addressing summary judgment prior to class certification to
 24 preserve the resources of the Court and the parties;

25 WHEREAS, Defendant agrees that the Court should address summary judgment on
 26 Plaintiffs’ wage statement claims prior to class certification, and agrees that it will not assert the
 27 one-way intervention doctrine typically imposed in putative class actions to prevent Plaintiff
 28 from moving for class certification if the Court grants Plaintiffs’ summary judgment motion.

1 THEREFORE, the Parties stipulate and agree to the following:

2 1) The Parties will file cross motions for summary judgment on Plaintiffs' wage
 3 statement claims prior to Plaintiffs moving for class certification;

4 2) The cross motions for summary judgment will proceed on the following briefing
 5 schedule:

- 6 • November 8, 2016: Deadline for Plaintiffs' Motion
- 7 • November 22, 2016: Deadline for Defendant's Motion and Opposition to Plaintiffs'
 8 Motion
- 9 • December 7, 2016: Deadline for Plaintiff's Reply and Opposition to Defendant's Motion
- 10 • December 21, 2016: Deadline for Defendant's Reply
- 11 • January 4, 2017: Hearing

12 3) Defendant will not assert the one-way intervention doctrine typically imposed in
 13 putative class actions to prevent Plaintiff from moving for class certification if the Court grants
 14 Plaintiffs' summary judgment motion.

15 4) The Parties request that the Court continue the October 5, 2016 class certification
 16 deadline for a date to be set after an order issues on cross motions for summary judgment.

17 IT IS SO STIPULATED.

18
 19 Dated: August 26, 2016

NICHOLS KASTER, LLP

20
 21 By /s/Daniel S. Brome

22 Matthew C. Helland
 Daniel S. Brome

23 Attorneys for Plaintiffs and the Class

1 Dated: August 26, 2016

MORGAN, LEWIS & BOCKIUS LLP

2
3 By /s/Andrew P. Frederick
4 Robert Jon Hendricks
Andrew P. Frederick5 Attorneys for Defendant,
6 DELTA AIR LINES, INC.7 I, Daniel S. Brome, am the ECF user whose identification and password are being used to
8 file this Stipulation and [Proposed] Order Regarding Cross-Motions for Summary Judgment on
9 Plaintiffs' Wage Statement Claims on behalf of Defendant Delta Air Lines, Inc. and Plaintiffs
10 Dev Anand Oman, Todd Eichmann, Michael Lehr, and Albert Flores. In compliance with
11 L.R. 5-1(i)(3), I hereby attest that Andrew P. Frederick concurs in this filing.12
13 **ORDER**14 Pursuant to the Stipulation Regarding Cross Motions for Summary Judgment on
15 Plaintiffs' Wage Statement Claims, the Court orders as follows:16 1) The Parties will file cross motions for summary judgment on Plaintiffs' wage
17 statement claims prior to Plaintiffs moving for class certification;
18 2) The cross motions for summary judgment will proceed on the following briefing
19 schedule:20 • November 8, 2016: Deadline for Plaintiffs' Motion
21 • November 22, 2016: Deadline for Defendant's Motion and Opposition to Plaintiffs'
22 Motion
23 • December 7, 2016: Deadline for Plaintiff's Reply and Opposition to Defendant's Motion
24 • December 21, 2016: Deadline for Defendant's Reply
25 • January 4, 2017: Hearing26 3) Defendant may not assert the one-way intervention doctrine typically imposed in
27 putative class actions to prevent Plaintiff from moving for class certification if the Court grants
28 Plaintiffs' summary judgment motion.

4) The October 5, 2016 class certification deadline is continued, with a date to be set after an order issues on cross motions for summary judgment.

IT IS SO ORDERED.

Dated: August 29, 2016


HONORABLE WILLIAM H. ORRICK
US DISTRICT JUDGE